

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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**LUIS NIEVES and MAYA JONES NIEVES,**

**Plaintiffs,**

**05-CV-00017S(Sr)**

**v.**

**FRANCES GONZALEZ, et al.,**

**Defendants.**

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**DECISION AND ORDER**

Pursuant to 28 U.S.C. § 636(c), the parties have consented to the assignment of this case to the undersigned to conduct all proceedings in this case, including the entry of final judgment. Dkt. #72.

Currently before the Court is defendants' motion to dismiss Maya Jones Nieves as a plaintiff in this action. Dkt. #67. In support of this motion, the Assistant Attorney General declares that on September 7, 2007, he received a telephone call from an individual who identified herself as Maya Jones Nieves and stated that "she did not know what this case was about and did not want to be involved in it." Dkt. #68, ¶ 7.

As the Court has previously noted, Luis Nieves filed this lawsuit subsequent to Maya Jones Nieves' October 12, 2004 request that she be placed on Luis Nieves' negative correspondence and telephone list and subsequent to the October 16, 2004 filing of a complaint against Luis Nieves with the New York City Police Department alleging receipt of a threatening letter from him. Dkt. #10, pp.24 & 39; Dkt.

#17, Exh. H. The Court also notes that the Complaint does not appear to assert a separate cause of action on behalf of Maya Jones Nieves and that she did not sign the Complaint. Dkt. #3.

Although directed to respond to this motion no later than November 23, 2007 (Dkt. #70), plaintiff Luis Nieves has not submitted any information to the Court supporting the continuation of Maya Jones Nieves as a party to this action. To the contrary, the Court notes that plaintiff Luis Nieves' proposed amended complaint omits Maya Jones Nieves as a party. Dkt. #52-2.

Accordingly, it is hereby **ORDERED** that defendants' motion (Dkt. #67), to dismiss Maya Jones Nieves as a plaintiff be **GRANTED** and that the Clerk of the Court terminate Maya Jones Nieves as a party to this action and amend the caption to name Luis Nieves as the sole plaintiff.

**SO ORDERED.**

DATED: Buffalo, New York  
March 18 , 2008

\s\ H. Kenneth Schroeder, Jr.  
**H. KENNETH SCHROEDER, JR.**  
**United States Magistrate Judge**